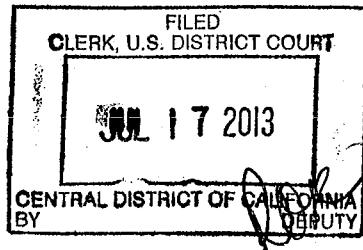


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Attorneys For Defendants,
THE CMI GROUP, INC., THE CMI GROUP GP, LLC and CREDIT
MANAGEMENT, LP.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JOSHUA D. BROWN, on behalf of
himself and all others similarly
situated.

No. 2:12-cv-08382-DMG-E

STIPULATED PROTECTIVE ORDER

Plaintiffs,

VS.

**THE CMI GROUP, INC., THE CMI
GROUP GP, LLC and CREDIT
MANAGEMENT, LP.,**

Defendants.

Defendants THE CMI GROUP, INC., THE CMI GROUP GP, LLC and CREDIT MANAGEMENT, LP ("CMI Defendants") through their counsel of record Carlson & Messer, LLP and Plaintiff JOSHUA D. BROWN, ("Plaintiff"), through his counsel of record, Lieff Cabraser Heimann & Bernstein, LLP, Meyer Wilson Co., LPA and Parisi & Havens LLP, file this Stipulated Protective Order as set forth below.

1 1. PURPOSES AND LIMITATIONS

2 Disclosure and discovery activity in this action are likely to involve production of
3 confidential, proprietary, or private information for which special protection from public
4 disclosure and from use for any purpose other than prosecuting this litigation may be
5 warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the
6 following Stipulated Protective Order. The parties acknowledge that this Order does not
7 confer blanket protections on all disclosures or responses to discovery and that the
8 protection it affords from public disclosure and use extends only to the limited
9 information or items that are entitled to confidential treatment under the applicable legal
10 principles. The parties further acknowledge, as set forth in Section 12.3, below, that this
11 Stipulated Protective Order does not entitle them to file confidential information under
12 seal; Local Civil Rule 79-5 sets forth the procedures that must be followed and the
13 standards that will be applied when a party seeks permission from the court to file
14 material under seal.

15 2. DEFINITIONS

16 2.1 Challenging Party: a Party or Non-Party that challenges the
17 designation of information or items under this Order.

18 2.2 “CONFIDENTIAL” Information or Items: information
19 (regardless of how it is generated, stored or maintained) or tangible things that qualify for
20 protection under Federal Rule of Civil Procedure 26(c).

21 2.3 Counsel (without qualifier): Outside Counsel of Record and
22 House Counsel (as well as their support staff).

23 2.4 Designating Party: a Party or Non-Party that designates
24 information or items that it produces in disclosures or in responses to discovery as
25 “CONFIDENTIAL.”

26 2.5 Disclosure or Discovery Material: all items or information,

1 regardless of the medium or manner in which it is generated, stored, or maintained
2 (including, among other things, testimony, transcripts, and tangible things), that are
3 produced or generated in disclosures or responses to discovery in this matter.

4 2.6 Expert: a person with specialized knowledge or experience in a
5 matter pertinent to the litigation who has been retained by a Party or its counsel to serve
6 as an expert witness or as a consultant in this action.

7 2.7 House Counsel: attorneys who are employees of a party to this
8 action. House Counsel does not include Outside Counsel of Record or any other outside
9 counsel.

10 2.8 Non-Party: any natural person, partnership, corporation,
11 association, or other legal entity not named as a Party to this action. Non-party does not
12 include members of the proposed class(es) in this action.

13 2.9 Outside Counsel of Record: attorneys who are not employees of
14 a party to this action but are retained to represent or advise a party to this action and have
15 appeared in this action on behalf of that party or are affiliated with a law firm which has
16 appeared on behalf of that party.

17 2.10 Party: any party to this action, including all of its officers,
18 directors, employees, consultants, retained experts, and Outside Counsel of Record (and
19 their support staffs).

20 2.11 Producing Party: a Party or Non-Party that produces Disclosure
21 or Discovery Material in this action.

22 2.12 Professional Vendors: persons or entities that provide litigation
23 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
24 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
25 their employees and subcontractors.

26 2.13 Protected Material: any Disclosure or Discovery Material that is
27 designated as "CONFIDENTIAL."

1 2.14 Receiving Party: a Party that receives Disclosure or Discovery
2 Material from a Producing Party.

3 3. SCOPE

4 The protections conferred by this Stipulation and Order cover not only Protected
5 Material (as defined above), but also (1) any information copied or extracted from
6 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
7 Material; and (3) any testimony, conversations, or presentations by Parties or their
8 Counsel that might reveal Protected Material. However, the protections conferred by this
9 Stipulation and Order do not cover the following information: (a) any information that is
10 in the public domain at the time of disclosure to a Receiving Party or becomes part of the
11 public domain after its disclosure to a Receiving Party as a result of publication not
12 involving a violation of this Order, including becoming part of the public record through
13 trial or otherwise; and (b) any information known to the Receiving Party prior to the
14 disclosure or obtained by the Receiving Party after the disclosure from a source who
15 obtained the information lawfully and under no obligation of confidentiality to the
16 Designating Party. Any use of Protected Material at trial shall be governed by a separate
17 agreement or order.

18 4. DURATION

19 Even after final disposition of this litigation, the confidentiality obligations
20 imposed by this Order shall remain in effect until a Designating Party agrees otherwise in
21 writing or a court order otherwise directs. Final disposition shall be deemed to be the later
22 of (1) dismissal of all claims and defenses in this action, with or without prejudice; and
23 (2) final judgment herein after the completion and exhaustion of all appeals, rehearings,
24 remands, trials, or reviews of this action, including the time limits for filing any motions
25 or applications for extension of time pursuant to applicable law.

26 ///

27 ///

1 5. DESIGNATING PROTECTED MATERIAL

2 5.1 Exercise of Restraint and Care in Designating Material for
3 Protection. Each Party or Non-Party that designates information or items for protection
4 under this Order must take care to limit any such designation to specific material that
5 qualifies under the appropriate standards. The Designating Party must designate for
6 protection only those parts of material, documents, items, or oral or written
7 communications that qualify – so that other portions of the material, documents, items, or
8 communications for which protection is not warranted are not swept unjustifiably within
9 the ambit of this Order.

10 Mass, indiscriminate, or routinized designations are prohibited. Designations
11 that are shown to be clearly unjustified or that have been made for an improper purpose
12 (e.g., to unnecessarily encumber or retard the case development process or to impose
13 unnecessary expenses and burdens on other parties) expose the Designating Party to
14 sanctions.

15 If it comes to a Designating Party's attention that information or items that it
16 designated for protection do not qualify for protection, that Designating Party must
17 promptly notify all other Parties that it is withdrawing the mistaken designation.

18 5.2 Manner and Timing of Designations. Except as otherwise
19 provided in this Order (see, e.g., second paragraph of section 5.2(a) below), or as
20 otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for
21 protection under this Order must be clearly so designated before the material is disclosed
22 or produced.

23 Designation in conformity with this Order requires:

24 (a) for information in documentary form (e.g., paper or electronic
25 documents, but excluding transcripts of depositions or other pretrial or trial proceedings),
26 that the Producing Party affix the legend “CONFIDENTIAL” to each page that contains
27 protected material. If only a portion or portions of the material on a page qualifies for
28

1 protection, the Producing Party also must clearly identify the protected portion(s) (e.g.,
 2 by making appropriate markings in the margins).

3 A Party or Non-Party that makes original documents or materials
 4 available for inspection need not designate them for protection until after the inspecting
 5 Party has indicated which material it would like copied and produced. During the
 6 inspection and before the designation, all of the material made available for inspection
 7 shall be deemed "CONFIDENTIAL." After the inspecting Party has identified the
 8 documents it wants copied and produced, the Producing Party must determine which
 9 documents, or portions thereof, qualify for protection under this Order. Then, before
 10 producing the specified documents, the Producing Party must affix the
 11 "CONFIDENTIAL" legend to each page that contains Protected Material. If only a
 12 portion or portions of the material on a page qualifies for protection, the Producing Party
 13 also must clearly identify the protected portion(s) (e.g., by making appropriate markings
 14 in the margins).

15 (b) for testimony given in deposition or in other pretrial or trial
 16 proceedings, that the Designating Party identify on the record, before the close of the
 17 deposition, hearing, or other proceeding, all protected testimony.

18 (c) for information produced in some form other than documentary
 19 and for any other tangible items, that the Producing Party affix in a prominent place on
 20 the exterior of the container or containers in which the information or item is stored the
 21 legend "CONFIDENTIAL." If only a portion or portions of the information or item
 22 warrant protection, the Producing Party, to the extent practicable, shall identify the
 23 protected portion(s).

24 5.3 Inadvertent Failures to Designate. If timely corrected, an
 25 inadvertent failure to designate qualified information or items does not, standing alone,
 26 waive the Designating Party's right to secure protection under this Order for such
 27 material. Upon timely correction of a designation, the Receiving Party must make

1 reasonable efforts to assure that the material is treated in accordance with the provisions
2 of this Order.

3 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

4 **6.1 Timing of Challenges.** Any Party or Non-Party may challenge a
5 designation of confidentiality at any time. Unless a prompt challenge to a Designating
6 Party's confidentiality designation is necessary to avoid foreseeable, substantial
7 unfairness, unnecessary economic burdens, or a significant disruption or delay of the
8 litigation, a Party does not waive its right to challenge a confidentiality designation by
9 electing not to mount a challenge promptly after the original designation is disclosed.

10 **6.2 Meet and Confer.** The Challenging Party shall initiate the dispute
11 resolution process by providing written notice of each designation it is challenging and
12 describing the basis for each challenge. To avoid ambiguity as to whether a challenge has
13 been made, the written notice must recite that the challenge to confidentiality is being
14 made in accordance with this specific paragraph of the Protective Order. The parties shall
15 attempt to resolve each challenge in good faith and must begin the process by conferring
16 directly (in voice to voice dialogue; other forms of communication are not sufficient)
17 within 14 days of the date of service of notice. In conferring, the Challenging Party must
18 explain the basis for its belief that the confidentiality designation was not proper and
19 must give the Designating Party an opportunity to review the designated material, to
20 reconsider the circumstances, and, if no change in designation is offered, to explain the
21 basis for the chosen designation. A Challenging Party may proceed to the next stage of
22 the challenge process only if it has engaged in this meet and confer process first or
23 establishes that the Designating Party is unwilling to participate in the meet and confer
24 process in a timely manner.

25 **6.3 Judicial Intervention.** If the Parties cannot resolve a challenge without court
26 intervention, the Designating Party shall formulate a written stipulation in conformance
27 with Local Rule 37-2.1 and 37-2.2 ("Joint Stipulation"). The stipulation shall be filed

1 and served with the notice of motion to retain confidentiality. After the Joint Stipulation
2 is filed, each party may file a supplemental memorandum of law not later than fourteen
3 (14) days prior to the hearing date. Unless otherwise ordered by the Court, a
4 supplemental memorandum shall not exceed five (5) pages in length. No other separate
5 memorandum of points and authorities shall be filed by either party in connection with
6 the motion.

7 The Court will not consider any motion to retain confidentiality in the
8 absence of a joint stipulation or a declaration from counsel for the moving party
9 establishing that opposing counsel (a) failed to confer in a timely manner in accordance
10 with paragraph 6.2; (b) failed to provide the opposing party's portion of the joint
11 stipulation in a timely manner in accordance with L.R. 37-2.2; or (c) refused to sign and
12 return the joint stipulation after the opposing party's portion was added. If such
13 declaration accompanies the motion, then L.R. 6-1, 7-9 and 7-10 apply.
14 The motion may be noticed to be heard not earlier than twenty one (21) days after the
15 filing of the motion. Said motion shall also be filed in compliance with Local Rule 79-5,
16 if applicable.)
17

18 The burden of persuasion in any such challenge proceeding shall be on the
19 Designating Party. Unless the Designating Party has waived the confidentiality
20 designation by failing to file a motion to retain confidentiality as described above, all
21 parties shall continue to afford the material in question the level of protection to which it
22 is entitled under the Producing Party's designation until the court rules on the challenge.

23 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

24 7.1 **Basic Principles.** A Receiving Party may use Protected Material
25 that is disclosed or produced by another Party or by a Non-Party in connection with this
26 case only for prosecuting, defending, or attempting to settle this litigation. Such Protected
27 Material may be disclosed only to the categories of persons and under the conditions
28

1 described in this Order. When the litigation has been terminated, a Receiving Party must
2 comply with the provisions of section 13 below (FINAL DISPOSITION).

3 Protected Material must be stored and maintained by a Receiving Party at a
4 location and in a secure manner that ensures that access is limited to the persons
5 authorized under this Order.

6 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
7 otherwise ordered by the court or permitted in writing by the Designating Party, a
8 Receiving Party may disclose any information or item designated “CONFIDENTIAL”
9 only to:

10 (a) the Receiving Party’s Outside Counsel of Record in this action,
11 as well as employees of said Outside Counsel of Record to whom it is reasonably
12 necessary to disclose the information for this litigation and who have signed the
13 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A;

14 (b) the officers, directors, and employees (including House Counsel)
15 of the Receiving Party to whom disclosure is reasonably necessary for this litigation and
16 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

17 (c) Experts (as defined in this Order) of the Receiving Party to
18 whom disclosure is reasonably necessary for this litigation and who have signed the
19 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

20 (d) the court and its personnel;

21 (e) court reporters and their staff, professional jury or trial
22 consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably
23 necessary for this litigation and who have signed the “Acknowledgment and Agreement
24 to Be Bound” (Exhibit A);

25 (f) during their depositions, witnesses in the action to whom
26 disclosure is reasonably necessary and who have signed the “Acknowledgment and
27 Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party

1 or ordered by the court. Pages of transcribed deposition testimony or exhibits to
2 depositions that reveal Protected Material must be separately bound by the court reporter
3 and may not be disclosed to anyone except as permitted under this Stipulated Protective
4 Order.

5 (g) the author or recipient of a document containing the information
6 or a custodian or other person who otherwise possessed or knew the information.

7 8. **PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**
OTHER LITIGATION

9 If a Party is served with a subpoena or a court order issued in other litigation that
10 compels disclosure of any information or items designated in this action as
11 "CONFIDENTIAL," that Party must:

12 (a) promptly notify in writing the Designating Party. Such
13 notification shall include a copy of the subpoena or court order;

14 (b) promptly notify in writing the party who caused the subpoena or
15 order to issue in the other litigation that some or all of the material covered by the
16 subpoena or order is subject to this Protective Order. Such notification shall include a
17 copy of this Stipulated Protective Order; and

18 (c) cooperate with respect to all reasonable procedures sought to be
19 pursued by the Designating Party whose Protected Material may be affected.

20 If the Designating Party timely seeks a protective order, the Party served with the
21 subpoena or court order shall not produce any information designated in this action as
22 "CONFIDENTIAL" before a determination by the court from which the subpoena or
23 order issued, unless the Party has obtained the Designating Party's permission. The
24 Designating Party shall bear the burden and expense of seeking protection in that court of
25 its confidential material – and nothing in these provisions should be construed as
26

1 authorizing or encouraging a Receiving Party in this action to disobey a lawful directive
2 from another court.

3 9. **A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED**
4 **IN THIS LITIGATION**

5 (a) The terms of this Order are applicable to information produced
6 by a Non-Party in this action and designated as "CONFIDENTIAL." Such information
7 produced by Non-Parties in connection with this litigation is protected by the remedies
8 and relief provided by this Order. Nothing in these provisions should be construed as
9 prohibiting a Non-Party from seeking additional protections.
10

11 (b) In the event that a Party is required, by a valid discovery request, to
12 produce a Non-Party's confidential information in its possession, and the Party is subject
13 to an agreement with the Non-Party not to produce the Non-Party's confidential
14 information, then the Party shall:

15 (1) promptly notify in writing the Requesting Party and the
16 Non-Party that some or all of the information requested is subject to a confidentiality
17 agreement with a Non-Party;

18 (2) promptly provide the Non-Party with a copy of the Stipulated
19 Protective Order in this litigation, the relevant discovery request(s), and a reasonably
20 specific description of the information requested; and

21 (3) make the information requested available for inspection by the
22 Non-Party.

23 (c) If the Non-Party fails to object or seek a protective order from this
24 court within 14 days of receiving the notice and accompanying information, the
25 Receiving Party may produce the Non-Party's confidential information responsive to the
26 discovery request. If the Non-Party timely seeks a protective order, the Receiving Party
27 shall not produce any information in its possession or control that is subject to the
28

1 confidentiality agreement with the Non-Party before a determination by the court. Absent
2 a court order to the contrary, the Non-Party shall bear the burden and expense of seeking
3 protection in this court of its Protected Material.

4 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

5 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
6 Protected Material to any person or in any circumstance not authorized under this
7 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing
8 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve
9 all unauthorized copies of the Protected Material, (c) inform the person or persons to
10 whom unauthorized disclosures were made of all the terms of this Order, and (d) request
11 such person or persons to execute the "Acknowledgment and Agreement to Be Bound"
12 that is attached hereto as Exhibit A.

13
14 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
PROTECTED MATERIAL

15
16 When a Producing Party gives notice to Receiving Parties that certain inadvertently
17 produced material is subject to a claim of privilege or other protection, the obligations of
18 the Receiving Parties are those set forth in Federal Rules of Civil Procedure 26(b)(5)(B).
19 This provision is not intended to modify whatever procedure may be established in an e-
20 discovery order that provides for production without prior privilege review. Pursuant to
21 Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the
22 effect of disclosure of a communication or information covered by the attorney-client
23 privilege or work product protection, the parties may incorporate their agreement in the
24 stipulated protective order submitted to the court.

25 **12. MISCELLANEOUS**

26 12.1 Right to Further Relief. Nothing in this Order abridges the right
27 of any person to seek its modification by the court in the future.
28

1 12.2 Right to Assert Other Objections. By stipulating to the entry of
2 this Protective Order no Party waives any right it otherwise would have to object to
3 disclosing or producing any information or item on any ground not addressed in this
4 Stipulated Protective Order. Similarly, no Party waives any right to object on any ground
5 to use in evidence of any of the material covered by this Protective Order.

6 12.3 Filing Protected Material. Without written permission from the
7 Designating Party or a court order secured after appropriate notice to all interested
8 persons, a Party may not file in the public record in this action any Protected Material. A
9 Party that seeks to file under seal any Protected Material must comply with Local Civil
10 Rule 79-5. Protected Material may only be filed under seal pursuant to a court order
11 authorizing the sealing of the specific Protected Material at issue. Pursuant to Civil Local
12 Rule 79-5, a sealing order will issue only upon a request establishing that the Protected
13 Material at issue is privileged, protectable as a trade secret, or otherwise entitled to
14 protection under the law.

15 If a Receiving Party's request to file Protected Material under seal pursuant to
16 Local Civil Rule 79-5.1 is denied by the court, then the Receiving Party may file the
17 information in the public record pursuant to Civil Local Rule 79-5.3 unless otherwise
18 instructed by the court.

19 13. FINAL DISPOSITION

20 Within 60 days after the final disposition of this action, as defined in paragraph 4,
21 each Receiving Party must return all Protected Material to the Producing Party or destroy
22 such material. As used in this subdivision, "all Protected Material" includes all copies,
23 abstracts, compilations, summaries, and any other format reproducing or capturing any of
24 the Protected Material. Whether the Protected Material is returned or destroyed, the
25 Receiving Party must submit a written certification to the Producing Party (and, if not the
26 same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies
27 (by category, where appropriate) all the Protected Material that was returned or destroyed

1 and (2) affirms that the Receiving Party has not retained any copies, abstracts,
2 compilations, summaries or any other format reproducing or capturing any of the
3 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
4 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
5 legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
6 work product, and consultant and expert work product, even if such materials contain
7 Protected Material. Any such archival copies that contain or constitute Protected Material
8 remain subject to this Protective Order as set forth in Section 4 (DURATION).

9 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

10
11
12 DATED: July 17, 2013 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
13
14
15 By: /s/ Jonathan D. Selbin
16 Jonathan D. Selbin
17
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28

Attorneys for Plaintiff and the Proposed Class

1 DATED: July 17, 2013 CARLSON AND MESSER LLP
2

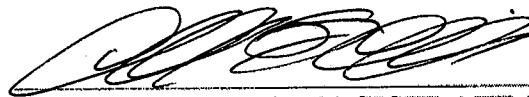
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9 *Attorneys for Defendants*
10 *THE CMI GROUP, INC., THE CMI GROUP GP, LLC*
and *CREDIT MANAGEMENT, LP.*

11
12
13
14 IT IS SO ORDERED:
15

16 Dated: 7/17/13



17 UNITED STATES MAGISTRATE JUDGE
18 Hon. Charles F. Eick
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1 EXHIBIT A
2

3 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND
4

5 I, _____ [print or type full name], of _____
6 [print or type full address], declare under penalty of perjury that I have read in its entirety and
7 understand the Stipulated Protective Order that was issued by the United States District Court for the
8 Central District of California on [_____] in the case of *Joshua Brown v. The CMI Group, Inc., et al.*,
9 Case No. No. 2:12-cv-08382-DMG-E. I agree to comply with and to be bound by all the terms of this
10 Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose
11 me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in
12 any manner any information or item that is subject to this Stipulated Protective Order to any person or
13 entity except in strict compliance with the provisions of this Order.
14

15 I further agree to submit to the jurisdiction of the United States District Court for the
16 Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order,
17 even if such enforcement proceedings occur after termination of this action.
18

19 I hereby appoint _____ [print or type full name] of
20 _____ [print or type full address and telephone number] as my
21 California agent for service of process in connection with this action or any proceedings related to
22 enforcement of this Stipulated Protective Order.
23

24 Date: _____
25

26 City and State where sworn and signed: _____
27

28 Printed name: _____
29 [printed name]
30

Signature: _____
[signature]
31
32